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HOUSE BILL 336

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Danice Picraux

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; AUTHORIZING A COUNTY LOCAL OPTION QUALITY OF LIFE GROSS RECEIPTS TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"~~[NEW MATERIAL]~~ QUALITY OF LIFE GROSS RECEIPTS TAX--  
AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--  
ELECTION.--

A. Prior to January 1, 2016, the majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county for the privilege of engaging in business. The tax may be imposed in one or more increments of

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1 one-sixteenth percent not to exceed an aggregate rate of one-  
2 fourth percent. The tax shall be imposed for a period of not  
3 more than ten years from the effective date of the ordinance  
4 imposing the tax. Having enacted an ordinance imposing the tax  
5 prior to January 1, 2016 pursuant to the provisions of this  
6 section, the governing body may enact subsequent ordinances for  
7 succeeding periods of not more than ten years; provided that  
8 each ordinance meets the requirements of this section and of  
9 the County Local Option Gross Receipts Taxes Act. The tax  
10 imposed pursuant to the provisions of this section may be  
11 referred to as the "quality of life gross receipts tax".

12 B. The governing body, at the time of enacting an  
13 ordinance imposing the quality of life gross receipts tax,  
14 shall dedicate the revenue to cultural programs and activities  
15 provided by a local government and to cultural programs, events  
16 and activities provided by contract or operating agreement with  
17 nonprofit or publicly owned cultural organizations and  
18 institutions.

19 C. The governing body of a class A county with a  
20 population of more than two hundred fifty thousand according to  
21 the most recent federal decennial census, when dedicating  
22 revenue pursuant to Subsection B of this section, shall specify  
23 that:

24 (1) the revenue may not be used for capital  
25 expenditures, endowments or fundraising;

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1 (2) at least one percent but not more than  
2 three percent of the revenue shall be used for marketing  
3 cultural programs, events and activities that receive funding  
4 from the revenue;

5 (3) at least three percent but not more than  
6 five percent of the revenue shall be dedicated to  
7 administration; and

8 (4) at least one percent but not more than  
9 three percent of the revenue shall be used for implementation  
10 of the goals of the cultural plan for the county and the  
11 largest municipality located within the exterior boundaries of  
12 the county.

13 D. An ordinance imposing any increment of the  
14 quality of life gross receipts tax shall not go into effect  
15 until after an election is held and a majority of the voters in  
16 the county voting in the election vote in favor of imposing the  
17 tax. The governing body shall adopt a resolution calling for  
18 an election within ninety days of the date the ordinance is  
19 adopted on the question of imposing the tax. The question may  
20 be submitted to the voters as a separate question at a general  
21 election or at a special election called for that purpose by  
22 the governing body. A special election shall be called,  
23 conducted and canvassed in substantially the same manner as  
24 provided by law for general elections. In any election held,  
25 the ballot shall clearly state the purpose to which the revenue

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1 will be dedicated pursuant to this section. If a majority of  
2 the voters voting on the question approves the ordinance  
3 imposing the quality of life gross receipts tax, the ordinance  
4 shall become effective in accordance with the provisions of the  
5 County Local Option Gross Receipts Taxes Act. If the question  
6 of imposing the quality of life gross receipts tax fails, the  
7 governing body shall not again propose the imposition of the  
8 tax for a period of one year from the date of the election.

9 E. The quality of life gross receipts tax revenue  
10 shall be used to meet the following goals: promoting and  
11 preserving cultural diversity; enhancing the quality of  
12 cultural programs and activities; fostering greater access to  
13 cultural opportunities; promoting culture in order to further  
14 economic development within the county; and supporting  
15 programs, events and organizations with direct, identifiable  
16 and measurable public benefit to residents of the county. It  
17 is the objective of the quality of life gross receipts tax that  
18 the revenue from the tax be used to expand and sustain existing  
19 programs and to develop new programs, events and activities,  
20 rather than to replace other funding sources for existing  
21 programs, events and activities.

22 F. The governing body of a county that imposes the  
23 quality of life gross receipts tax shall, within sixty days of  
24 the election approving the imposition of the tax, appoint a  
25 county cultural advisory board consisting of between nine and

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1 fifteen members. Persons appointed to the board shall be  
2 residents of the county who are knowledgeable about the  
3 activities eligible for quality of life tax funding. At least  
4 one member of the board shall be appointed by the governing  
5 body of the most populous municipality within the county. The  
6 members of the board shall be appointed for fixed terms and  
7 shall not be removed during their terms except for malfeasance.  
8 The terms of the initial board members shall be staggered so  
9 that one-third of the members are appointed for one-year terms,  
10 one-third are appointed for two-year terms and one-third are  
11 appointed for three-year terms. Subsequent appointments to the  
12 board shall be for three-year terms. If a vacancy on the board  
13 occurs, the governing body shall appoint a replacement member  
14 for the remainder of the unexpired term. A board member shall  
15 not serve for more than two consecutive terms.

16 G. The county cultural advisory board shall have  
17 the responsibility of overseeing the distribution of the  
18 quality of life gross receipts tax revenue for the goals listed  
19 in Subsection E of this section. The board shall:

20 (1) biennially submit recommendations to the  
21 governing body for expenditures of revenue from the quality of  
22 life gross receipts tax that are allocated pursuant to this  
23 section through contracts for services with appropriate  
24 organizations and institutions;

25 (2) establish and publicize the necessary

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1 qualifications for organizations and institutions to receive  
2 quality of life gross receipts tax funding; and

3 (3) develop guidelines and procedures for  
4 applying for funding through a request for proposals process  
5 and the criteria by which contracts will be awarded. The  
6 evaluation process shall include a public review component.

7 H. The cultural advisory board shall establish  
8 reporting requirements for recipients of the quality of life  
9 gross receipts tax revenue. The board shall provide to the  
10 governing body an annual evaluation of the use of revenue from  
11 the quality of life gross receipts tax to ensure that it is  
12 meeting the goals listed in Subsection E of this section.

13 I. If the quality of life gross receipts tax is  
14 enacted in a class A county with a population of more than two  
15 hundred fifty thousand according to the most recent federal  
16 decennial census, the net revenue from the tax remaining after  
17 distributions pursuant to Subsection C of this section shall be  
18 distributed as follows subject to the recommendations of the  
19 county cultural advisory board pursuant to Subsection G of this  
20 section:

21 (1) for the purpose of enhancing cultural  
22 programs and activities, sixty-five percent to a municipality  
23 for cultural programs and activities within the exterior  
24 boundaries of the county and five percent to the county for  
25 cultural programs and activities within the unincorporated

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1 areas of the county; provided that:

2 (a) the funds are distributed according  
3 to a plan that takes into consideration progress indicators  
4 that include current budgets, fiscal responsibility and  
5 attendance; and

6 (b) educational institutions serving  
7 kindergarten through twelfth grade are not eligible for  
8 distributions pursuant to this paragraph;

9 (2) for the purpose of providing cultural  
10 programs and services to the residents of the county, sixteen  
11 percent may be distributed through contracts for services with  
12 private nonprofit organizations with an annual operating budget  
13 of more than one hundred thousand dollars (\$100,000) and two  
14 percent may be distributed through contracts for services with  
15 private nonprofit organizations with an annual operating budget  
16 of one hundred thousand dollars (\$100,000) or less. To be  
17 eligible for a distribution pursuant to this paragraph, an  
18 organization shall have:

19 (a) been granted for the prior three  
20 consecutive years exemption from the federal income tax by the  
21 United States commissioner of the internal revenue as an  
22 organization described in Section 501(c)(3) of the Internal  
23 Revenue Code of 1986;

24 (b) as its primary purpose cultural  
25 programs; and

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1 (c) its principal office located within  
2 the exterior boundaries of the county; and

3 (3) for the purpose of providing cultural  
4 programs to residents of the county, twelve percent to:

5 (a) organizations that have a strong  
6 cultural program but do not have culture as their primary  
7 purpose; or

8 (b) foundations that are affiliated with  
9 state or federally owned institutions and that do not otherwise  
10 qualify for funding pursuant to this section but that offer  
11 cultural programs to the general public.

12 J. If the quality of life gross receipts tax is  
13 enacted in a county other than a class A county with a  
14 population of more than two hundred fifty thousand according to  
15 the most recent federal decennial census, up to forty percent  
16 of the net revenue from the tax remaining after distributions  
17 pursuant to Subsections A and B of this section shall be  
18 distributed to municipally owned institutions.

19 K. Every four years, the cultural advisory board  
20 shall review and revise as necessary:

21 (1) the guidelines and procedures for applying  
22 for funding;

23 (2) the criteria by which applications for  
24 funding will be evaluated; and

25 (3) the percentages specified in Paragraph (1)

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1 of Subsection I of this section and in Subsection J of this  
2 section for distribution of net revenue to municipally owned or  
3 county-owned institutions.

4 L. As used in this section, "cultural organizations  
5 and institutions" means organizations or institutions that have  
6 as a primary purpose the advancement or preservation of  
7 zoology, museums, library sciences, art, music, theater, dance,  
8 literature or the humanities."

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